IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1817 OF 2004

Vitthal Shripati Ladkat Petitioner

versus

Smt.Nandini Prabhakar Ladkat & ors. Respondents

Mr.A.P.Mundargi, Sr.Adv. with Mr.J.B.Kocheta for petitioner.

Mr.Nitin Jamdar for respondents 1 and 2.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 15th December 2005

PC :

1. Heard Shri Mundargi for the petitioner and Shri Jamdar appearing for respondents.

2. At the outset Shri Mundargi does not press for any relief as far as second respondent.

3. Shri Mundargi states that the order passed by learned Additional Sessions Judge, Pune in Criminal Revision Application No.447 of 2003 is ex-facie erroneous and the learned Judge

proceeded upon a misconception that the applicant had alleged that merely because contesting respondents 1 and 2 joined the accused no.1 in forming a partnership firm in the year 1996, that a conspiracy was hatched. In other words, the submission is that this act of formation of partnership alone could not have been the basis of charge of criminal conspiracy but events which led to formation of the partnership firm business and grant of agency by Hindustan Petroleum are also part thereof. The complaint will have to be read in this light, is the precise submission.

4. With the assistance of Shri Mundargi I have perused the complaint and the application filed for discharge as well as reply thereto of the petitioner herein. While it is true that the learned Magistrate refused to discharge the respondents herein mainly because he was influenced by the fact that the partnership business in the year 1996 is not an isolated act but the allegation must be considered in the backdrop of other facts and circumstances, the learned Additional Sessions Judge upon perusal of the complaint has come to a conclusion that the said complaint in fact alleges criminal conspiracy only because partnership of the year

1996. This finding is recorded upon perusal of the complaint.

5. In my view, it cannot be said that the learned Additional Sessions Judge has exceeded the limits of revisional jurisdiction while accepting the plea of respondents 1 and 2. The complaint has been perused by me with the assistance of Shri Mundargi. It is clear that in the entire complaint the acts of accused no.1 have been referred to. It is only when the partnership was allegedly dissolved in the year 1992 and post partition, that the complaint alleges in paragraph no.6 that the partnership business of Ladkat Brothers Service Station was constituted on 21st November 1996. It is this business which is being carried on in partnership by present respondents 2 and 3 with accused no.1. As far as allegations pertaining to the earlier partnership and its dissolution, it is clear that the complaint alleges that it was the accused no.1 who was responsible for the same. As far as respondents 2 and 3 are concerned, it is only the act of forming the partnership with accused no.1 which forms basis of conspiracy. As is rightly observed, apart from being shown as partners in this deed, there is nothing on record to show

that in all acts preceding the partnership deed of 1996 respondent nos.2 and 3 had any role to play. A pure finding of fact on the basis of the averments in the complaint does not call for any interference in writ jurisdiction. Petition dismissed.

(S.C.DHARMADHIKARI, J.)